

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 25, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

070D-175
Oahu

Consent to Assign; Amendment of Grant of Non-Exclusive Easement bearing General Lease No. S-5210, Linda M. Rivera, Trustee, Assignor, to Michael Miki and Mary Lau-Miki, Griffith Yanagi and Olivia Yanagi, Assignees, Kaluanui, Koolauloa, Oahu, Tax Map Key: (1) 5-3-010:17 (seaward).

APPLICANT:

Linda M. Rivera, Trustee of the Linda M. Rivera Trust dated July 26, 1995, as Assignor, to Michael Miki and Mary Lau-Miki, husband and wife, tenants by entirety, as to an undivided fifty percent (50%) and Griffith Yanagi and Olivia Yanagi, husband and wife, tenants by entirety, together as Tenants in Common, whose mailing address are 1820 Kumakani Place, Honolulu, Hawaii 96816, hereinafter called the Assignees.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kaluanui, Koolauloa, Oahu, identified by Tax Map Key: (1) 5-3-010:17 (seaward), as shown on the attached maps labeled Exhibit A1 and A2.

AREA:

692 square feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CHARACTER OF USE:

Right, privilege, and authority to construct, use, maintain, and repair the seawall and stairway purposes.

TERM OF LEASE:

Sixty-five (65) years, commencing on September 14, 1990, and expiring September 13, 2055. There are no rental reopenings scheduled.

ANNUAL RENTAL:

Not applicable. One-time payment of \$23,390 was made on March 4, 1992.

CONSIDERATION:

Not applicable. The subject easement assignment is triggered by the conveyance of the abutting private property.-

RECOMMENDED PREMIUM:

Not applicable as the easement does not allow for a premium.

DCCA VERIFICATION:

Assignors/Assignees are individuals and, as such, are not required to registered with DCCA.

REMARKS:

The Board at its meeting of September 10, 2004, under agenda item D-7, approved the consent to the assignment of Lease of Non-Exclusive Easement S-5210 from Edward J. Morgan to Linda M. Rivera, Trustee.

By way of a letter dated October 17, 2007, the Assignor informed the Land Division that she had sold her private-owned property identified by Tax Map Key: (1) 5-3-010:17, together with the subject easement. She is requesting the Board's consent to assign the easement to the Assignees.

The Assignor is in compliance with all of the easement terms and conditions. There has been no history of default.

The Assignees has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Comments from other government agencies were not solicited, due to the fact that there will be no change in the existing use of easement area. Staff did check with the Office of Hawaiian Affairs, who had no objections to this request. There are no other pertinent issues or concerns. Staff has no objections to this request.

To accommodate future transfer of the abutting private property, staff recommends the Board authorize as amendment to General Lease No. S-5210 by allowing the subject easement to run with the abutting private property. This condition is consistent with the new

dispositions authorized by the Board recently.

RECOMMENDATION: That the Board:

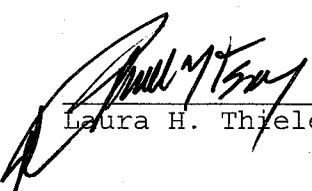

- A. Consent to the assignment of Grant of Easement Bearing General Lease No. S-5210 from Linda M. Rivera, Trustee of the Linda M. Rivera Trust dated July 26, 1995, Assignor, to Michael Miki and Mary Lau-Miki, Griffith Yanagi and Olivia Yanagi, Assignees, subject to the following:
1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
 2. Review and approval by the Department of the Attorney General; and
 3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Amend General Lease No. S-5210 by adding the following condition:
1. The easement shall run with the land and shall insure to the benefit of the real property described as Tax Map Key: (1) 5-3-010:17, provided however: it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.

Respectfully Submitted,



Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:


Laura H. Thielen, Chairperson 

S E A

SUBJECT
EASEMENT

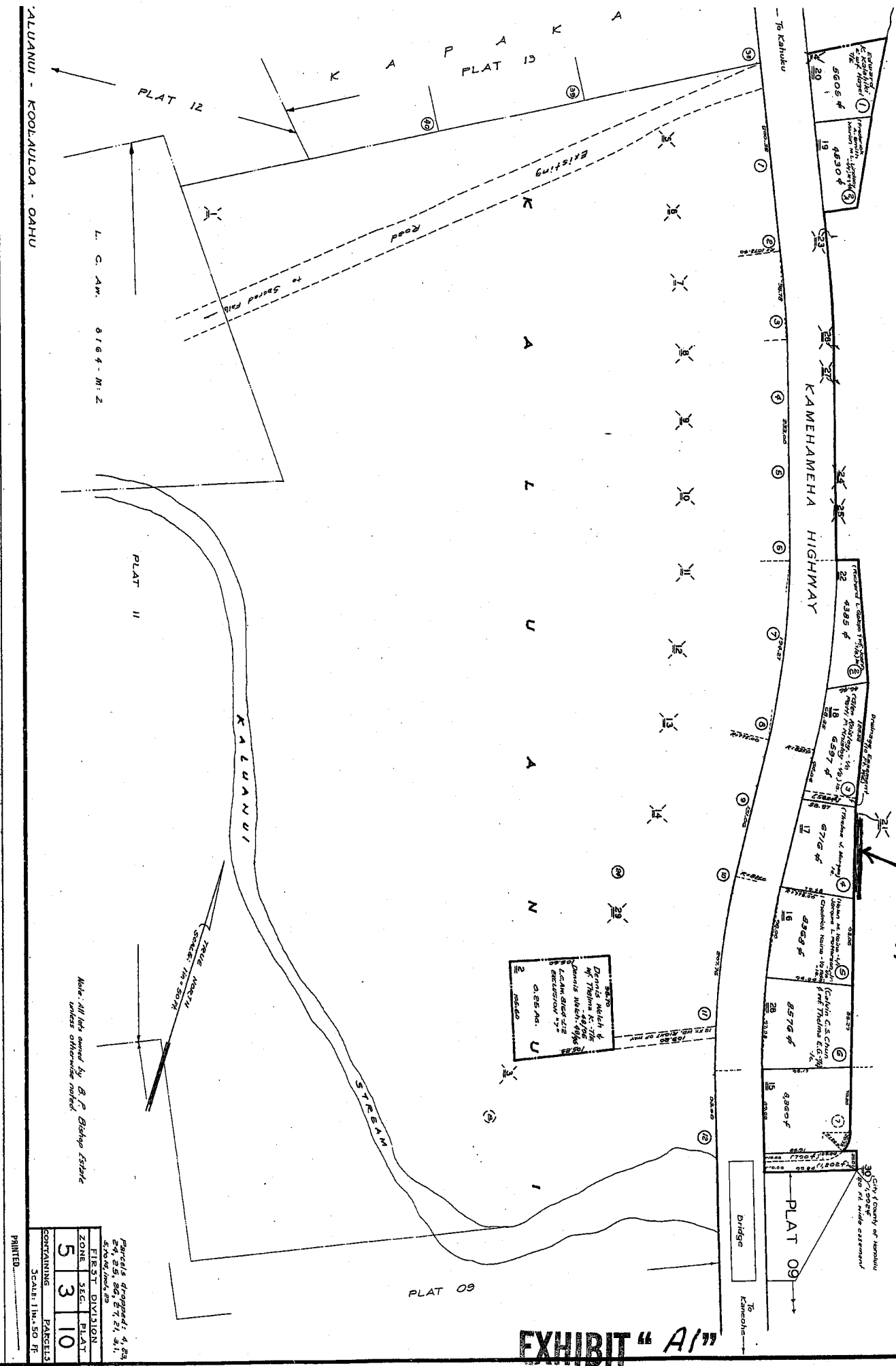


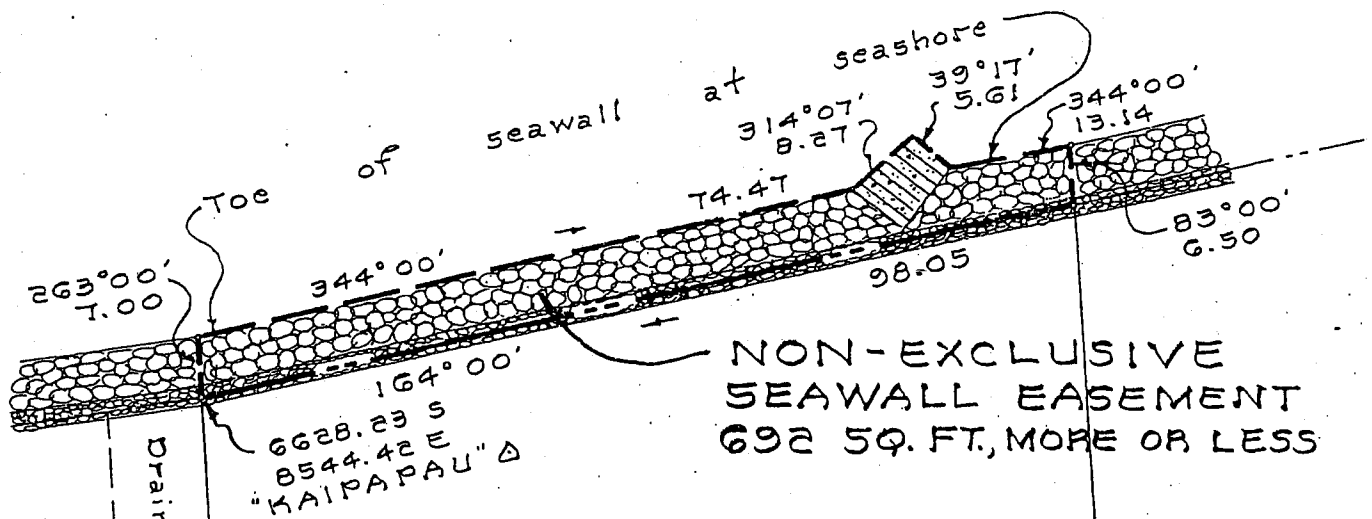
EXHIBIT "A1"

Parcels dropped: 4, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

ZONE	SEC.	PLAT
5	3	10
CONTAINING PARCELS		
SCALE: 1 in. = 50 ft.		

TRUE NORTH

Scale: 1 inch = 20 feet



R.P.S. 4475 and 7805, L.C. Aw. 7713, Ap. 32 to V. Kamama'u

KAMEHAMEHA HIGHWAY

To Hauula →

NON-EXCLUSIVE SEAWALL EASEMENT

Kaluanui, Koolauloa, Oahu, Hawaii

Scale: 1 inch = 20 feet

JOB O-440 (90)

C. BK.

TAX MAP: 5-3-10

C.S.F. NO. 21,383

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
STATE OF HAWAII

EXHIBIT 'A2

R.S.N. Nov. 7, 1990